

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF NextGen 1.8 (rev. 1.8.3)
Eastern Division**

David Goulding, et al.

Plaintiff,

v.

Case No.: 1:22-cv-05224

Honorable Sharon Johnson Coleman

Mark Miller

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, July 2, 2025:

MINUTE entry before the Honorable Sharon Johnson Coleman: Court heard brief oral argument on Defendant's motion to strike Plaintiff's third amended complaint [125]. Based on this argument and the parties' briefings, the Court denies Defendant's motion. In its order granting in part and denying in part Plaintiffs' motion for leave to file a second amended complaint, the Court stated that "Plaintiffs are permitted to file a second amended complaint with information gained through the close of discovery that conforms with the counts asserted against Defendant in their amended complaint" but are not permitted "to add Capitol Capital Corporation as a plaintiff, Jennifer Miller and Market Cap Concepts, LLC [("MCC")] as defendants, nor the corresponding counts against Defendant, Jennifer Miller, and [MCC] identified in their motion" [113]. After including such prohibited content in their second amended complaint [116], Plaintiffs filed the present third amended complaint [119] and subsequently filed their motion for summary judgment [120]. As directed by the Court, Plaintiff's third amended complaint removes CCC, Jennifer Miller, and MCC as parties and the respective claims brought for and against them. The remaining counts in the third amended complaint conform to and permissibly supplement the counts in the first amended complaint with information gained through the close of discovery such that Defendant both has notice of the basis of the counts and is not unduly prejudiced. Cf. *Toth v. USX Corp.*, 883 F.2d 1297 (7th Cir. 1989) (explaining that "the complaint merely serves to put the defendant on notice and is to be freely amended or constructively amended as the case develops, as long as amendments do not unfairly surprise or prejudice the defendant"). For these reasons, the Court denies Defendant's motion to strike. The Court extends briefing of Plaintiffs' motion for summary judgment as follows: Defendant shall file a response by 7/18/2025; Plaintiff shall file a reply by 8/1/2025. Oral argument set for 8/4/2025 is stricken and reset to 8/14/2025 at 1:30pm as an in-person hearing. Mailed notice. (ym)

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